

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

**DEVIL'S ADVOCATE, LLC, et al.,  
Plaintiffs,**

**V.**

**ZURICH AMERICAN INSURANCE  
COMPANY,  
Defendant.**

**Civil Action No. 1:13cv1246**

**ORDER**

The matter came before the Court for a final pretrial conference. Also pending is defendant's motion to dismiss plaintiffs' complaint pursuant to Rule 12(b)(6), Fed. R. Civ. P. (Doc. 7).

For the reasons stated from the Bench, and for good cause,

It is hereby **ORDERED** that defendant's motion to dismiss (Doc. 7) is **GRANTED IN PART** and **DENIED IN PART**, specifically as follows:

1. The motion is **DENIED** as to Count I (breach of contract).
2. The motion is **GRANTED** as to Count II (unjust enrichment), and Count II is accordingly **DISMISSED**.
3. The motion is **DENIED** as to Count III (conversion) insofar as that claim is based on the alleged conversion of plaintiffs' name and reputation, but **GRANTED** in all other respects.
4. The motion is **GRANTED** as to Count IV (unauthorized use of name in violation of Va. Code § 8.01-40), and Count IV is accordingly **DISMISSED**.
5. The motion is **GRANTED** as to Count V (trademark infringement), and Count V is accordingly **DISMISSED**.


6. The motion is **DENIED** as to Count VI (copyright infringement) insofar as that claim is based on the alleged unauthorized reproduction of plaintiffs' copyrighted resume,<sup>1</sup> but **GRANTED** in all other respects.

It is further **ORDERED** that the parties are **DIRECTED** to comply with the following schedule with respect to the remaining claims:<sup>2</sup>

1. Defendant's forecasted motion for summary judgment must be filed by 5:00 p.m., Friday, May 23, 2014, with the filings of responses and replies and the scheduling of oral argument to be governed by the local rules; and
2. A jury trial, if necessary, is **SCHEDULED** to commence at 10:00 a.m., Tuesday, June 24, 2014.

The Clerk is directed to send a copy of this Order to the *pro se* plaintiff and to all counsel of record.

Alexandria, Virginia  
May 15, 2014

  
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T. S. Ellis, III  
United States District Judge

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<sup>1</sup> Of course, this single remaining claim of copyright infringement may be *de minimis non curat lex*.

<sup>2</sup> Again, the remaining claims are (i) breach of contract (Count I), (ii) conversion of plaintiffs' name and reputation (Count III), and (iii) infringement of plaintiffs' copyrighted resume (Count VI).